IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL
WRIT PETITION NO. 513 (S/S) OF 2003
(Old No. 2413 of 1991)

Dharmendra Joshi, son of Sri Kasho Datt Joshi, aged about 27 years, resident of Aligarh, Post Chani, District Almora.

.....Petitioner.

Versus

1. State of Uttar Pradesh, through its Secretary, Hill Development, Civil Secretariat, Lucknow.
2. Principal Secretary to the Government of Uttar Pradesh, Civil Secretariat, Lucknow.
3. Special Secretary, Hill Development Department, U.P. Government, Lucknow.
4. Joint Secretary, Hill Development Department, Kumaon Regional Office, Almora.
5. Senior Investigator, Kumaon Regional Office, Almora.

.....Opp. Parties.

Dated: 17.05.2005

Hon'ble Rajesh Tandon, J.

Heard learned counsel for both the parties.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 30.03.1991 passed by the respondent no. 4.

Briefly stated the petitioner has been working from 04.11.1986 as a daily-wage typist in the department of Hill Development in Civil Secretariat and he has been in continuous service from 04.11.1986 to 24.07.1990.

The Principal Secretary State of Uttar Pradesh on 22.07.1989 appointed the petitioner as a Avar Verg Sahayak in the Regional Office of the Hill Development Department at Almora. The petitioner joined his duties at Almora in July, 1989.

On 27th March, 1991, he was awarded an honorarium of Rs. 300/- of his meritorious work on 30.03.1991. The Joint Secretary Hill Development Department, Almora served an order on the petitioner by which his services were terminated. The petitioner has submitted that the post of Lower Division Assistant is continuing in the Kumaon Regional Office at Almora and charge of that post is to be handed over by him to the respondent no. 5, who is the Senior Investigator in the same office.

The petitioner has also submitted that the persons joined the Hill Development Department subsequent to him are continuing on their posts and their services have not been terminated. Hence this petition.

At the time of filing of the writ petition, the Court has passed the following order on 22.04.2001:-

"Notices of the petitioner has been accepted on behalf of opposite parties by the Standing Counsel, who is allowed 6 weeks' time to file counter affidavit. The petitioner shall have a week's time to file rejoinder affidavit. The petitioner shall come up for orders/hearing in the month of July, 1991.

Petitioner's initial appointment on the post in question was till 29th May, 1990 but the petitioner was allowed to continue even after the expiry of the above period. By an order dated 30.03.91, it was indicated that it would not be possible to extend the petitioner's service beyond 31st March, 1991 and therefore, his services will stand terminated with effect from 31st March, 1991. This order was passed on the basis of the order dated 23.03.1991 of the Special Secretary to the Government in which also it has been indicated that it was not possible to extend the services of the petitioner beyond 31st March, 1991. The Standing Counsel has placed before me

instructions received by me which indicates that the petitioner's appointment was made till 28th Feb. 1991 but his services were terminated with effect from 31st March, 1991 in order to enable him to complete the accounts of the financial year.

It has been set out in para 12 of the petition that the post of Lower Division Assistant is still continuing in Kumaon Regional Office at Almora and that regular appointment on that post has so far not been made.

The petitioner has worked on the post in question since 1989. It is, therefore, provided as interim measure that if the post and work of Lower Division Assistant is still available in the Kumaon Regional Office at Almora, the petitioner will be allowed to continue."

The writ petition is, therefore, finally disposed of in terms of interim order dated 22.04.1991. The respondents are directed to allow the petitioner to continue on the post of Lower Division Assistant if the post and work are still available in the office. No order as to cost.

(Rajesh Tandon, J.)

Dated: 17.05.2005

Dhyani